IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
Appeal No.34 of 2007
In
Writ Petition No.678 of 2005

Maharashtra Engg.Plastic &
General Kamgar Union. .. Appellant

Vs.

M/s.Chamundi Petroleum & Ors. .. Respondents

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Shri A.D.Shetty with Ms Rita Joshi for the Appellant.

Shri Rahul Nerlekar for the Respondent Nos.1 and 2.

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CORAM : R.M.S.KHANDEPARKAR &
DR.D.Y.CHANDRACHUD, JJ

DATED : 2ND FEBRUARY, 2007

P.C.

1. Heard. This appeal arises from the judgment dated 12th June, 2006 passed in Writ Petition No.678 of 2005. The grievance of the appellant is that though the petrol pump industry formed part of the constitution, it was wrongly held by the Labour Court as well as by the Industrial Court and the Learned Single Judge that the appellant-union has no authority to file complaint under the MRTU and PULP Act, 1971 on the date on which it was filed, and therefore, it was not maintainable. It is also the grievance of the

appellant that the claim for permanency was also not duly considered by the Labour Court and the Industrial Court and the said aspect was overlooked by the Learned Single Judge while disposing the writ petition.

2. It is undisputed fact that on the date of filing of the complaint under the said Act, the petrol pump was not included in Schedule-A to the constitution of the appellant and that there is concurrent finding in that regard by the Labour Court and the Industrial Court as well as the Learned Single Judge after taking into consideration all the materials on record. It is also undisputed fact that the petrol pump industry was sought to be included as forming part of the constitution of the appellant-union after filing the complaint and registration in that regard was obtained in the month of June, 2000. Section 28 read with Section 3(17) of the said Act clearly requires the Union to be registered one to enable such Union to file complaint under the said Act. Considering the same, the view taken by the Learned Single Judge, while confirming the decision of the Labour Court and the Industrial Court, cannot be found fault with. The decision of the Apex Court sought to be relied upon by the learned

advocate for the respondents in the matter of **Indian Oxygen Ltd. v. Their Workmen**, reported in AIR 1969 SC 306 clearly supports the view taken by the Learned Single Judge in the facts and circumstances of the case.

3. Even on merits, there is no substance in the contention sought to be raised on behalf of the appellant. The appellant having neither created nor placed on record the evidence regarding claim for permanency, no fault could be found with the impugned order passed by the Learned Single Judge as well as the orders of Labour Court and the Industrial Court. The learned advocate appearing for the respondents fairly stated that all the employees who are members of the appellant-union are granted permanency in the employment from 1998. In the circumstances, therefore, considering the same also, there is no case made out for interference in the impugned order.

4. The learned advocate appearing for the appellant-union says that the appellant may be permitted to reserve its right to agitate the issue of claim of permanency prior to 1998. The question of permitting the appellant to reserve its right in this appeal does not arise. However, in case, in terms of

the provisions of law, the appellant is entitled to claim such right, nothing prevents it from claiming the same, merely because of the dismissal of the proceedings in the complaint filed under said Act.

5. The appeal accordingly is dismissed with no order as to costs.

(R.M.S.KHANDEPARKAR, J)

(DR.D.Y.CHANDRACHUD, J)